

## **CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 215**

**Citations Affected:** IC 12-7; IC 12-10; IC 16-18; IC 16-27; IC 16-28; IC 25-22.5; IC 25-23; IC 34-30; noncode.

**Synopsis:** Conference committee report for ESB 215. Personal care. Provides that an individual in need of self-directed in-home care who is a recipient approved to receive certain Medicaid waiver services or a participant in the community and home options to institutional care for the elderly and disabled (CHOICE) program may employ registered personal services attendants to provide attendant care services. Exempts from these provisions home health agencies, hospice programs, and health care professionals who practice within the scope of their license. Allows a personal services attendant to perform certain self-directed in-home services and medical activities that, in the opinion of the attending physician, meet certain conditions and for which the attendant has received training or instruction on how to properly perform the medical activity from a licensed health professional. Requires an individual in need of in-home care and the individual's case manager to develop an authorized care plan. Provides that procedures must be adopted to receive and adjudicate certain complaints against personal services attendants. Allows personal services attendants who are guilty of certain offenses to be placed on the nurse aide registry. Sunsets the self-directed in-home care program on July 1, 2003. Allows home health agencies to provide attendant care services. Establishes the governor's commission on caregivers to study issues regarding the availability and quality of caregivers in long term care health settings. Requires the commission to submit a report to the governor and legislative council by not later than October 1, 2002. Allows the commission to contract with a private individual or organization to provide the staff support necessary for the operation of the commission, including conducting research and developing the required report. Appropriates \$49,000 from the state general fund for the commission to fulfill its purpose. Requires that appropriate federal Medicaid waivers be sought to permit reimbursement of these services under Medicaid. Makes conforming amendments and technical corrections. (This conference committee report: (1) Requires that DDARS adopt procedures to receive and adjudicate certain complaints against personal services attendants; (2) establishes a July 1, 2003 sunset of the self-directed in-home care program; (3) removes provisions concerning drug utilization review board and the prescription drug advisory committee; (4) allows personal services attendants who are guilty of certain offenses to be placed on the nurse aide registry; (5) changes the effective date for home health agencies to provide

attendant care services; and (6) makes conforming amendments and technical corrections.)

**Effective:** Upon passage; July 1, 2001.

## CONFERENCE COMMITTEE REPORT

**MR. PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 215 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1       Page 3, between lines 20 and 21, begin a new line block indented and
- 2       insert:
- 3       **"(3) An individual who provides attendant care services and**
- 4       **who is employed by and under the control of an employer that**
- 5       **is not the individual who is receiving the services."**
- 6       Page 3, line 21, delete "(3)" and insert "(4)".
- 7       Page 3, line 38, after "need of" insert **"self-directed"**.
- 8       Page 4, line 18, after "professional" insert **", within the**
- 9       **professional's scope of practice,"**.
- 10      Page 4, line 19, after "activity" insert **"for the individual in need of**
- 11      **self-directed services"**.
- 12      Page 4, line 21, after "individual" insert **", or person responsible for**
- 13      **making health related decisions for the disabled individual,"**.
- 14      Page 6, line 21, delete "any".
- 15      Page 6, line 21, after "comments" insert **"related to the provision of**
- 16      **attendant care services"**.
- 17      Page 6, line 27, delete "all".
- 18      Page 6, line 28, after "division" insert **"and available within the**
- 19      **requested geographic area"**.
- 20      Page 6, line 34, after "need of" insert **"self-directed"**.
- 21      Page 6, line 35, after "need of" insert **"self-directed"**.
- 22      Page 7, line 18, after "services" insert **"or tasks"**.

- 1 Page 7, line 31, delete "hours" and insert "**frequency**".
- 2 Page 8, line 17, after "division" insert "**and office**".
- 3 Page 8, between lines 20 and 21, begin a new paragraph and insert:
- 4 "**Sec. 20. The division shall adopt rules under IC 4-22-2**
- 5 **concerning the following:**
- 6 (1) The receipt, review, and investigation of complaints
- 7 concerning the neglect, abuse, mistreatment, or
- 8 misappropriation of property of an individual in need of
- 9 self-directed in-home care by a personal services attendant.
- 10 (2) Establish notice and administrative hearing procedures in
- 11 accordance with IC 4-21.5.
- 12 (3) Appeal procedures, including judicial review of
- 13 administrative hearings.
- 14 (4) Procedures to place a personal services attendant who has
- 15 been determined to have been guilty of neglect, abuse,
- 16 mistreatment, or misappropriation of property of an individual
- 17 in need of self-directed in-home care on the state nurse aide
- 18 registry.
- 19 **Sec. 21. This chapter expires July 1, 2003."**
- 20 Page 8, delete lines 21 through 42.
- 21 Delete pages 9 through 10.
- 22 Page 11, delete line 1.
- 23 Page 11, line 4, delete "[EFFECTIVE JULY 1, 2001]" and insert
- 24 "[EFFECTIVE UPON PASSAGE]".
- 25 Page 11, line 9, delete "[EFFECTIVE JULY 1, 2001]" and insert
- 26 "[EFFECTIVE UPON PASSAGE]".
- 27 Page 11, line 14, after "than" delete "an".
- 28 Page 11, line 21, delete "and maintaining continence".
- 29 Page 11, line 24, delete "medical".
- 30 Page 11, line 37, delete "[EFFECTIVE JULY 2001]: Sec]." and insert
- 31 "[EFFECTIVE UPON PASSAGE]: Sec.".
- 32 Page 12, line 26, after "allowed" insert "**to be performed by an**
- 33 **attendant**".
- 34 Page 12, line 27, delete "Services" and insert "**Authorized services**".
- 35 Page 12, line 31, delete "JULY 1, 2001]" and insert "UPON
- 36 PASSAGE]".
- 37 Page 12, after line 42, begin a new paragraph and insert:
- 38 "SECTION 20. IC 16-28-13-2, AS AMENDED BY P.L.108-1999,
- 39 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 40 JULY 1, 2001]: Sec. 2. (a) As used in this chapter, "other unlicensed
- 41 employee" means:
- 42 (1) an employee of a health facility; ~~or~~
- 43 (2) a hospital based health facility; **or**
- 44 (3) **a personal services attendant (as defined by IC 12-10-17-8);**
- 45 who is not licensed (as defined in IC 25-1-9-3) by a board (as defined
- 46 in IC 25-1-9-1).
- 47 (b) The term does not include an employee of an ambulatory
- 48 outpatient surgical center, a home health agency, a hospice program,
- 49 or a hospital that is not licensed (as defined in IC 25-1-9-3) by a board
- 50 (as defined in IC 25-1-9-1).
- 51 Page 13, line 1, after "IC 25-22.5-1-2" insert: ", AS AMENDED BY

1 SEA 180-2001, SECTION 6,".

2 Page 13, line 11, after "(3)" insert "A paramedic (as defined in

3 IC 16-18-2-266), an advanced emergency medical technician (as

4 defined in IC 16-18-2-6), an emergency medical technician (as defined

5 in IC 16-18-2-112), or a person with equivalent certification from

6 another state who renders advanced life support (as defined in

7 IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):

8 (A) during a disaster emergency declared by the governor under

9 IC 10-4-1-7 in response to an act that the governor in good faith

10 believes to be an act of terrorism (as defined in IC 35-41-1-26.5);

11 and

12 (B) in accordance with the rules adopted by the Indiana

13 emergency medical services commission or the disaster

14 emergency declaration of the governor.

15 (4)".

16 Page 13, line 16, delete "(4)" and insert "(5)".

17 Page 13, line 19, delete "osteopathIC".

18 Page 13, line 20, reset in roman "osteopathic".

19 Page 13, line 21, delete "(5)" and insert "(6)".

20 Page 13, line 23, delete "(6)" and insert "(7)".

21 Page 13, line 28, delete "(7)" and insert "(8)".

22 Page 13, line 30, delete "(8)" and insert "(9)".

23 Page 13, line 33, delete "(9)" and insert "(10)".

24 Page 13, line 35, delete "(10)" and insert "(11)".

25 Page 13, line 36, delete "(11)" and insert "(12)".

26 Page 13, line 38, delete "(12)" and insert "(13)".

27 Page 14, line 2, delete "(13)" and insert "(14)".

28 Page 14, line 4, delete "(14)" and insert "(15)".

29 Page 14, line 6, delete "(15)" and insert "(16)".

30 Page 14, line 8, delete "(16)" and insert "(17)".

31 Page 14, line 10, delete "(17)" and insert "(18)".

32 Page 14, line 12, delete "(18)" and insert "(19)".

33 Page 14, line 14, delete "(19)" and insert "(20)".

34 Page 14, line 28, strike "(8)" and insert "(9)".

35 Page 14, line 29, strike "(17)," and insert "(18)".

36 Page 14, line 32, delete "(20)" and insert "(21)".

37 Page 14, line 33, delete "(21)" and insert "(22)".

38 Page 15, line 9, delete "(22)" and insert "(23)".

39 Page 15, line 11, delete "(23)" and insert "(24)".

40 Page 15, line 13, delete "(24) Attendant" and insert "**(25) An**

41 **attendant who provides**".

42 Page 15, line 14, delete "(25)" and insert "(26)".

43 Page 15, line 14, after "providing" insert "**authorized**".

44 Page 15, line 16, strike "(a)(8)" and insert "**(a)(9)**".

45 Page 15, line 16, strike "(a)(17)" and insert "**(a)(18)**".

46 Page 15, line 23, strike "(a)(20)" and insert "**(a)(21)**".

47 Page 15, line 23, strike "(a)(21)" and insert "**(a)(22)**".

48 Page 15, line 39, strike "(a)(7)" and insert "**(a)(8)**".

49 Page 15, line 42, delete "[EFFECTIVE JULY 1, 2001]" and insert

50 "[EFFECTIVE UPON PASSAGE]".

- 1 Page 16, line 11, strike "certified" and insert "**licensed**".
- 2 Page 17, line 1, after "providing" insert "**authorized**".
- 3 Page 17, line 3, delete "the furnishing of" and insert "**an attendant**
- 4 **who provides**".
- 5 Page 17, line 5, delete "IC 34-30-2-43.8" and insert "IC
- 6 34-30-2-43.9".
- 7 Page 17, line 7, delete "43.8" and insert "**43.9**".
- 8 Page 17, line 7, delete "IC 12-11-14-13(b)" and insert "**IC**
- 9 **12-10-17-13(b)**".
- 10 Page 17, delete lines 9 through 42.
- 11 Page 18, delete lines 1 through 40.
- 12 Page 20, line 30, delete "(l)" and insert "**(k)**".
- 13 Page 20, line 32, delete "by".
- 14 Page 21, line 29, delete "office of Medicaid policy and planning" and
- 15 insert "**division of disability, aging, and rehabilitative services**".
- 16 Page 21, between lines 31 and 32, begin a new paragraph and insert:
- 17 "SECTION 27. [EFFECTIVE UPON PASSAGE] **(a)**
- 18 **Notwithstanding IC 12-10-17-20, as added by this act, the division**
- 19 **of disability, aging, and rehabilitative services shall adopt rules**
- 20 **required under IC 12-10-17-20 before March 1, 2002.**
- 21 **(b) Notwithstanding IC 16-28-13-2, as amended by this act, the**
- 22 **state department of health shall not place a personal services**
- 23 **attendant on the state nurse aide registry before March 1, 2002.**
- 24 **(c) This SECTION expires March 1, 2002.**
- 25 SECTION 28. [EFFECTIVE UPON PASSAGE] **(a) IC 25-22.5, as**
- 26 **it relates to the unlawful or unauthorized practice of medicine or**
- 27 **osteopathic medicine, does not apply to an attendant who provides**
- 28 **attendant care services as defined in IC 16-27-1-0.5.**
- 29 **(b) Notwithstanding IC 25-22.5-1-2 and IC 25-23-1-27.1, both as**
- 30 **amended by this act, an individual may not provide attendant care**
- 31 **services until July 1, 2001.**
- 32 **(c) This SECTION expires July 1, 2001."**
- 33 Renumber all SECTIONS consecutively.
- (Reference is to ESB 215 as reprinted April 12, 2001.)

**Conference Committee Report**  
**on**  
**Engrossed Senate Bill 215**

**S**igned by:

---

Senator Miller  
Chairperson

---

Representative Brown C

---

Senator Young R

---

Representative Goeglein

**Senate Conferees**

**House Conferees**